

Internal Revenue Service

Department of the Treasury

District
Director

[REDACTED]

Date: JUL 14 1995
Employer ID Number: [REDACTED]
Person to Contact: [REDACTED]
Telephone Number: [REDACTED]
Refer Reply To: [REDACTED]

Dear Sir or Madam:

We have considered your application for recognition of exemption from federal income tax under section 501(c)(7) of the Internal Revenue Code.

A review of the information submitted reveals that you incorporated in the State of [REDACTED]. Your organizing document states that your organization is organized exclusively for social and recreational purposes within the meaning of 501(c)(7) of the Internal Revenue Code. The sole activity of the organization is to own and maintain a houseboat on Lake [REDACTED] for use by the members and their guests. The houseboat was originally purchased by [REDACTED] and was operated by them from [REDACTED] until [REDACTED]. Memberships were sold by [REDACTED] which entitled individuals to use a particular boat each year for two weeks. In [REDACTED], THE National Park Service no longer allowed this type of arrangement at Lake [REDACTED]. Your organization, "[REDACTED]" was formed due to restrictions enforced by The National Park Service. You have provided a Bill of Sale showing that [REDACTED] sold to [REDACTED] one houseboat identification number, [REDACTED]. No consideration was given for the houseboat. In fact "[REDACTED]" received \$[REDACTED] for maintenance funds. You state in your application that title to the boat was changed from [REDACTED] to [REDACTED]. However the copy of the title provided still shows [REDACTED] as a owner. Your main source of financial support is membership fees assessed against the members. No qualifications are required in order to become a member. In your letter dated [REDACTED] you state that the organization does not sponsor any function or activities.

Internal Revenue Code Section 501(c)(7) provides for the exemption of "clubs organized for pleasure, recreation, and other non-profitable purposes substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder."

Section 1.501(c)(7)-1(b) of the regulations provides, in part, as follows:
"A club which engages in business, such as making its social and recreational facilities available to the general public or by selling real estate, timber, or other products, is not organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, and is not exempt under section 501(a)."

Arner v. Rogan, 40-2 U.S.T.C. holds that clubs must have members actively sharing interests or goals, as evidenced, for example, by appropriate prerequisite conditions or limitations upon members. It is insufficient, for purposes of this tax exemption, for an organization to be able to demonstrate a common objective or interest of the members; commingling is essential.

Barstow Rodeo and Riding Club v. Commissioner, 12 T.C.M. 1351 (1953) holds that a club must have an established membership of individuals, personal contacts and fellowship.

Revenue Ruling 69-635, C.B. 1969-2, 126, holds that a commingling of members must play a material part in the activities of the organization before a section 501(c)(7) exemption can be granted.

Revenue Ruling 70-32, 1970-1 C.B. 140 holds that a flying club providing economical flying facilities for its members but having no organized social and recreation program does not qualify for exemption under section 501(c)(7) of the Code. The club was organized to own and operate aircraft suitable for business or personal use by its members, to enable its members to improve their flying abilities, and, through the ownership, operation, and maintenance of flying equipment, to provide economical flying facilities for its members. Membership is open to all persons who are interested in flying.

The sole activity of the club involves the ownership, operation, and maintenance of the aircraft for use by the members. There is little commingling among members for social or recreational purposes. Therefore the organization does not qualify for exemption under Section 501(c)(7) of the Code.

Revenue Ruling 74-30, 1974-1 C.B. 137 holds that a flying club of limited membership that provides flying privileges solely for its members, assesses dues based on the club's fixed operating costs and charges fees based on variable operating expenses, and whose members are interested in flying as a hobby, constantly commingle in informal meetings, maintain and repair the aircraft owned by the club, and fly together in small groups qualifies for exemption under section 501(c)(7) of the Code.

In this organization members are constantly in personal contact with each other by formal meetings of the board and the general membership, and by informal meetings to schedule the use of aircraft. Further, many are in contact to assist in training, to wash the planes, to inspect the aircraft and to make maintenance decisions.

Revenue Ruling 58-589, C.B. 1958-2, 266 states that in making a determination whether an organization comes within the provisions of section 501(c)(7) of the Code, all facts pertaining to its form of organization, method of operation and activities should be considered. An organization must establish (1) that it is a club both organized and operated exclusively for pleasure, recreation and other non-profitable purposes and (2) that no part of its net earnings inures to the benefit of any private shareholder or individual. To meet the first requirement, there must be an established membership of individuals, personal contacts and fellowship. A commingling of the members must play a material part in the life of the organization.

Based on the information presented, we have concluded that you are not operated exclusively for pleasure and recreation. Specific factors of your organization very much resemble the organization in Revenue Ruling 70-32, which is not exempt

under section 501(c)(7). Like that organization and the cases of Arner v. Rogan and Barstow Rodeo and Riding Club, your organization does not have any organized social and recreational programs. The sole activity of the club involves the ownership, operation, and maintenance of a houseboat on Lake [REDACTED] for personal use by members and their guests. Even though your organization does not make use of the boat available to the general public, your organization does engage in business by selling memberships. Members are part owners of the boat and are entitled to the use of the boat on specific weeks assigned to them. Your organization is engaged in a business and primarily providing services to your members. Unlike the organization in Revenue Ruling 74-30 members of your organization do not constantly commingle in informal meetings, and membership is not limited or required to be approved by vote of members in good standing. No qualifications are required in order to become a member of your organization. Members are not constantly in personal contact with each other by formal meetings of the board and the general membership, and informal meetings to schedule the use of the boat.

Reference to the Revenue Rulings and court cases provided clearly show that in order to qualify for exemption under 501(c)(7) commingling among members must play a material part in the activities of the organization. A club can not engage in a business primarily for the benefit of its members.

Accordingly, it is held that you are not entitled to exemption from Federal income tax as an organization describe in section 501(c)(7) of the Code and you are required to file income tax returns on Form 1120.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

If you have any further questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely,

[REDACTED]
[REDACTED]
District Director

Enclosures:
Publication 892
Form 6018